

MAKING THE SELECT COMMITTEE ON INDIAN AFFAIRS
A PERMANENT COMMITTEE

NOVEMBER 2 (legislative day, OCTOBER 31), 1983.—Ordered to be printed

Mr. MATHIAS, from the Committee on Rules and Administration,
submitted the following

REPORT

[To accompany S. Res. 127]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 127) to make the Select Committee on Indian Affairs a permanent committee of the Senate, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

BACKGROUND

Article 1, Section 3 of the Constitution assigns to Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes;" and the Supreme Court, in *Worcester v. Georgia* (1832), further emphasized the plenary powers of Congress in dealing with the Indians of the United States:

(The Constitution) confers on Congress the powers of war and peace; of making treaties, and of regulating commerce with foreign nations, and among the several states, and with the Indian tribes. These powers comprehend all that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions, the shackles imposed on this power, in the confederation, are discarded.

Equally important has been the treaty and statutory concept of a Federal trust responsibility toward the Indians. Article 3 of the Northwest Ordinance of 1789 provided:

The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken

from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them. (1 Stat. 50).

This concept of a trust relationship has been repeatedly affirmed by the courts throughout the 19th and 20th centuries.

CONGRESS AND THE INDIANS

During the early Congresses, Indian matters were considered either by the whole Senate or House, by select committees appointed for that purpose, or by various other committees. In January 1820, the Senate established a Standing Committee on Indian Affairs having jurisdiction over Indian affairs legislation; this was followed in December 1821 by establishment of a Standing Committee on Indian Affairs in the House of Representatives.

Throughout the 19th century and into the 20th, there existed 15 other congressional committees in the Senate and the House, which had jurisdiction over various aspects of Indian affairs. These included committees to investigate trespassing on Indian lands as well as Indian attacks on settlers, and committees to coordinate legislation affecting specific tribes or groups of tribes.

In 1921, all existing Senate standing committees dealing with Indian legislation were consolidated with the existing Committee on Indian Affairs. The Indian Affairs Committee was, in turn, one of the five committees combined in 1947 into the new Senate Public Lands Committee (in accord with provisions of the Legislative Reorganization Act of 1946 (60 Stat. 812)), which became the Senate Committee on Interior and Insular Affairs in 1948. In the House, the Indian Affairs Committee became in 1947 (by provision of the same Legislative Reorganization Act) part of the jurisdiction of the House Public Lands Committee, which, in 1951, became the House Committee on Interior and Insular Affairs.

Subsequently, a Joint Committee on Navajo-Hopi Administration was created in 1951 by Public Law 81-474 (64 Stat. 44). It was officially abolished by the Navajo-Hopi Settlement Act of 1974 (88 Stat. 1712).

In 1975, the House Committee on Education and Labor was given jurisdiction over Indian education. Moreover, bills concerned with other aspects of Indian affairs (Indian health, for example) have, on occasion, been referred to various committees in addition to, or other than, Interior and Insular Affairs. (In cases where comprehensive bills overlap the jurisdiction of several committees, the Speaker may refer a bill to several committees simultaneously or sequentially.) In the Senate, similarly, there are areas where a bill may, depending on the subject matter and language, be referred to committees other than, or in addition to, the committee with primary jurisdiction.

In 1977, jurisdiction over Indian affairs in the Senate was assigned to the newly created temporary Select Committee on Indian Affairs as part of the committee reorganization plan implemented by Senate

Resolution 4, 95th Congress (the Committee on Interior and Insular Affairs was replaced with the Committee on Energy and Natural Resources). At that time, the Select Committee was to exist for 2 years, after which Indian affairs jurisdiction was to be transferred to the Senate Committee on Labor and Human Resources. The Select Committee was extended for 2 more years in 1978 by Senate Resolution 405, 95th Congress, and again in 1980 for another 3 years when the Senate agreed to Senate Resolution 448, 96th Congress. Senate Resolution 448 provided for an extension of the committee through January 2, 1984.

COMMITTEE HEARING ON SENATE RESOLUTION 127

On October 18, 1983, the Committee on Rules and Administration held hearings on Senate Resolution 127, sponsored by Senator Andrews and cosponsored by 44 other Senators. Testifying in favor of this measure were Senator Andrews, chairman of the Select Committee on Indian Affairs; Senator Melcher, ranking minority member of the Select Committee; and Senator Goldwater. Appearing on behalf of national organizations of Indians and tribal groups to testify in favor were Newton Lamar, National Tribal Chairman's Association; Silas Whitman, National Congress of American Indians; and LaDonna Harris, Americans for Indian Opportunity, all of Washington, D.C.

COMMITTEE ACTION ON SENATE RESOLUTION 127

On November 1, 1983, at a legislative markup session, the Committee on Rules and Administration voted unanimously to report favorably to the Senate Senate Resolution 127, without amendment.